REMARKS

Summary of the Interview

Applicants would like to thank Examiner McCloud for the courtesies extended to Applicants' counsel, Perry D. Oldham, in an April 20, 2004 interview. In accordance with MPEP § 713.04, a summary of the interview follows. U.S. Patent 5,371,829 to Hoeberigs (hereinafter "Hoeberigs") was discussed with respect to all of the rejected claims. Inasmuch as the motor of Hoeberigs drives a ventilator for creating a hot air current (*see, e.g.*, Claim 1 and col. 3, lines 60-61 of Hoeberigs), and does not adjust the opening of a cover over a grilling surface, the examiner agreed to reconsider the claims as amended. Further, the examiner agreed to reconsider the rejections made under 35 U.S.C. § 103(a) with regards to the references that are not analogous or reasonably pertinent to Applicants' invention.

Summary of the Response

Claims 27-35 were previously allowed. Applicants hereby amend Claims 1, 3, 7, 12 and 21, and cancel Claims 13 and 22. The limitation of dependent Claim 13 was added to Claim 12, and the limitation of dependent Claim 22 was added to Claim 21.

Each of the primary references relied on by the Examiner in rejecting the claims is discussed separately below. By focusing on specific claims and teachings of the references, Applicants do not intend to imply an agreement with the Examiner's assertions with respect to other claims and reference teachings.

Hoeberigs

Claims 12, 18, 20 and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hoeberigs. Hoeberigs does not teach or disclose Applicants' inventions as set forth in the claims. Although Hoeberigs may disclose a ventilator motor and a separate cover, Applicants respectfully traverse the characterization in the office action that Hoeberigs teaches "a motor (Fig. 3a:19) coupled to the cover (Fig. 3a:6) to adjust the opening between the cover (Fig. 3b:6) and the grilling surface (Fig. 3b:4)." *See* Hoeberigs at 3:59-61 (Hoeberigs discloses "a ventilator 16 which takes care for the circulation of the hot air. The ventilator is driven by means of an electrical motor 19."). The motorized ventilator in Hoeberigs is not a cover. Rather, it is a fan for circulating hot air. *See, e.g.*, Claim 1 of Hoeberigs. Similarly, Hoeberigs does not disclose that "the motor stops movement of the cover at a point within in a full range of cover movement." In fact, Hoeberigs does not disclose any movement of the cover by a motor.

Accordingly, Applicants respectfully traverse the rejection under 35 U.S.C. § 102(b) of Claims 12, 18, 20 and 21.

Iimura

Applicants respectfully traverse the rejections under 35 U.S.C. § 103(a) combining U.S. Patent No. 5,779,032 to Iimura et al. (hereinafter "Iimura") with Hoeberigs. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention was concerned." *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir. 1992). Iimura discloses "[a]ccessory boxes for holding jewelry and the like," and is not analogous prior art. Iimura at 1:6-7. Iimura is not part of the same endeavor as the claims rejected under § 103(a), which instead recite a cooking apparatus. The inventions of Iimura and the present application involve completely different fields. Further, Iimura is not reasonably pertinent to the problems solved by the pending application because a person having ordinary skill in the art would not reasonably have expected to solve the problems of a cooking apparatus by considering a reference dealing with displaying accessories or jewelry in a jewelry box.

Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Neither Hoeberigs nor Iimura provide the teaching, suggestion, or motivation to provide "user protection from flare-ups due to the ability to control the cover from a remote location." To the contrary, Iimura does not relate to cooking at all, and Hoeberigs teaches a "cover 6 forms with the recipient 4 a ***closed*** room during baking or heating." Hoeberigs 3:56-57 (emphasis added). Accordingly, Applicants respectfully traverse the use of Iimura in the rejection of the pending claims.

Claims 12 and 21

Independent Claims 12 and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hoeberigs. As explained previously, Hoeberigs does not disclose the claimed invention as set forth in Claims 12 and 21. Further, Claims 12 and 21 were amended to include the limitations from dependent Claims 13 and 22, respectively. Dependent Claims 13 and 22 were rejected under 35 U.S.C. § 103(a) on the basis of the combination of Hoeberigs with Iimura. As explained above, Iimura is not analogous prior art, and the limitations added by

amendment herein provide additional basis for allowance of claims 12 and 21. Accordingly, Applicants respectfully request allowance of amended Claims 12 and 21.

Claim 1

Independent Claim 1 was rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,437,291 to Hopponen (hereinafter "Hopponen") in view of Hoeberigs. As acknowledged by the examiner, "Hopponen does not teach a motor coupled to the cover, the motor adjusting the opening between the cover and the grill." Hoeberigs also suffers from this same deficiency. The combination of Hopponen and Hoeberigs does not teach the claimed invention. Accordingly, Applicants respectfully traverse the rejection of Claim 1.

Claim 23

Independent Claim 23 was rejected under 35 U.S.C. § 103(a) as being obvious over Iimura in view of Hoeberigs. Again, the combination of Hoeberigs and Iimura fail to teach the recited claim. Accordingly, Applicants respectfully traverse the rejection of Claim 23.

Dependent Claims

The dependent claims are additionally believed to be patentable for the limitations recited therein.

Conclusion

In view of the foregoing, Applicants submit that the claims are patentably distinct from the cited art, and request that the application be allowed. If any issues remain that can potentially be resolved by telephone, the Examiner is invited to call the undersigned attorney of record at 949-721-2961.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 5/21/2004

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